

Date Mailed August 12, 1999
--------------------------------

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Complaint by Apartment Association of Southeastern  
Wisconsin, Inc., Regarding Hold Harmless Agreement

05-UI-108

**NOTICE OF PROCEEDING AND INVESTIGATION**

**THIS IS A PROCEEDING**, pursuant to Wis. Stat. §§ 196.28(1), 196.37(2), and 227.41 to determine the legality of a hold-harmless agreement required of apartment owners by two utilities before the utilities will disconnect utility service provided to rental units.

On May 20, 1999, the Apartment Association of Southeastern Wisconsin, Inc. (AASW) wrote a letter to the Commission concerning a hold harmless agreement which its members are required to enter by two Wisconsin utilities – Wisconsin Electric Power Company (WEPCO) and Wisconsin Gas Company (WGC). The agreement requires apartment owners to hold the utilities harmless when the utilities disconnect utility service to a rental unit when the rental unit's tenant vacates the unit and requests that service to the unit be terminated. Unless an apartment owner signs the hold-harmless agreement, the utilities will not disconnect service to the rental unit. AASW contends that such a requirement violates Wis. Stat. § 196.643(1). The statute provides:

**Owner responsibility for service to rental dwelling unit. (1)**

**RESPONSIBLE PARTY.** When a customer terminates service to the customer's rental dwelling unit, a public utility shall make reasonable attempt to identify the party responsible for service to the rental dwelling unit after the customer's termination. If a responsible party cannot be identified, the public utility may give the owner notice by regular or other mail of the public utility's intent to hold the owner responsible for service to the rental dwelling unit. The owner shall not be responsible for service if the public utility does not give the notice under this subsection or if, within 15 days after the date the notice is mailed, the owner notifies the public utility of the name of the party responsible for service to the rental dwelling unit or notifies the public utility that service to the rental dwelling unit should be terminated and affirms that service termination will not endanger human health or life or cause damage to property.

AASW argues that the utilities' insistence on a hold-harmless agreement exceeds their authority under the last sentence of Wis. Stat. § 196.643(1) and violates the statute. Upon receipt of the AASW letter, staff solicited and received responses from the two utilities. Both admitted the practice complained about but defended its legality.

Wis. Stat. § 227.41 permits the Commission to issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforced by it. The Commission construes the AASW letter as a petition for declaratory ruling and, hereby, grants the petition.

The parties to this proceeding are AASW, petitioner, and WEPCO and WGC, respondents. The issues in this case appear to be legal and not factual. Therefore, no hearing will be held unless one of the parties brings a factual disagreement to the attention of the Commission and requests a hearing no later than 10 days after the date of issuance of this notice. This matter will be decided on briefs, with the issues to be addressed as follow:

- (1) Are the respondents acting contrary to Wis. Stat. § 196.643(1) by refusing to disconnect service to a rental unit which was recently vacated by a customer/tenant unless the unit owner agrees to hold the utility harmless for any damage caused by the disconnection?
- (2) Are the respondents committing an unreasonable act or practice contrary to Wis. Stat. § 196.37(2) by refusing to disconnect service to a rental unit which was recently vacated by a customer/tenant unless the unit owner agrees to hold the utility harmless for any damage caused by the disconnection?

The parties shall file a joint stipulation of facts with the Commission no later than 15 days after the date of the issuance of this notice. AASW shall serve and file its brief no later than 30 days following the due date of the joint stipulation of facts; WEPCO and WGC shall serve and file their briefs within 30 days of the date of service of AASW's brief. AASW may serve and file a reply brief within 14 days of service of the respondents' briefs. All documents shall be addressed to the attention of Steven A. Levine, Assistant General Counsel.

**NOTICE IS GIVEN** that the Commission considers it necessary, in order to carry out its duties, to investigate all books, accounts, practices, and activities of WEPCO and WGC. The expenses incurred or to be incurred by the Commission which are reasonably attributable to such an investigation will be assessed against and collected from WEPCO and WGC in accordance with the provisions of Wis. Stat. § 196.85 and Wis. Admin. Code ch. PSC 5.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the case coordinator listed below.

Docket 05-UI-108

Questions regarding this matter may be directed to case coordinator Attorney Steven Levine at (608) 267-2890.

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

---

Lynda L. Dorr  
Secretary to the Commission

SAL:tlk:g:\notice\pending\05-UI-108.doc